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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,596

06/30/2006

Edward Someus

9014-1003

7175

466 7590 11/13/2009
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

EXAMINER

WOOD, JARED M

ART UNIT

PAPER NUMBER

1793

NOTIFICATION DATE

DELIVERY MODE

11/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/560,596	Applicant(s) SOMEUS, EDWARD	
	Examiner JARED WOOD	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18 and 24 is/are rejected.
- 7) ☒ Claim(s) 19-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Both claims 18 and 24 have language contain therein which renders the claims indefinite. Applicant is advised that the proposed amendments listed below would make the claims clear and definite in accordance with the originally intended scope and in accordance with applicant's specification.

Amend the word "of" at the end of line 2 of claim 18 to read "for".

Amend the word "manufacturing" in line 6 of claim 18 to read "carbonizing animal bone".

Delete the words "material core temperature" in line 7 of claim 18.

Amend the word "the" in line 7 of claim 18 to read "a".

Amend the word "of" appearing between the words "supply" and "plants" in line 2 of claim 24 to "for".

Amend the word "manufacturing" in line 6 of claim 24 to read "carbonizing animal bone".

Delete the words "material core temperature" in line 7 of claim 24.

Amend the word "the" in line 7 of claim 24 to read "a".

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Allowable Subject Matter

Claims 19-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-24 would have been allowed except for the indefiniteness of claims 18 and 24 as previously noted. The following is an examiner's statement of reasons for indicating allowable subject matter: No prior art can be found to disclose or suggest carrying a microbial soil inoculant comprising aerobic microorganisms on animal bone charcoal. The nearest prior art to applicant's invention, WO 92/083355 (Kosanke et al.), provides a similar inoculant which is preferably carried on clay but is also disclosed to be carried on charcoal. Animal bone charcoal (primarily calcium phosphate) has high phosphorus content especially when compared to traditional charcoal (primarily carbon) and is not disclosed to be functionally equivalent to the charcoal disclosed by Kosanke. Although the disclosure of *Biomethanation of low pH petrochemical wastewater using up-flow fixed-film anaerobic reactors* (Patel et al.) discloses carrying microbial populations on animal bone charcoal, applicant's aerobic microorganisms are fundamentally different to the anaerobic microorganisms disclosed by Patel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Response to Arguments

Applicant's arguments, see pages 9 and 10, filed 06/30/2009, with respect the combination of the disclosures of Kosanke et al. and Patel et al. have been fully considered and are persuasive. Since the previously rejected claims have been cancelled no withdrawal of the previously issued rejection is necessary. All other arguments are moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JARED WOOD whose telephone number is (571)270-5911. The examiner can normally be reached on Monday - Friday, 7:30 am - 5:00 pm, EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JARED WOOD/
Examiner, Art Unit 1793

/J.A. LORENZO/
Supervisory Patent Examiner, Art Unit
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